IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 599 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors... .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 600 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors..... .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 601 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors... .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 602 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 603 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors. ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 604 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors..... ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 605 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 606 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors. ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 607 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .

Respondents.

AND

WRIT PETITION NO. 608 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 609 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 610 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 611 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners
V/s
The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 612 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners

V/s

The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 613 OF 2006

Smt.Indirabai Narayan Biwalkar ... . Petitioner

V/s

The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 614 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners

V/s

The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 615 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners

V/s

The State of Maharashtra & Ors... ... . Respondents.

AND

WRIT PETITION NO. 616 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors .... Petitioners

V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 617 OF 2006

Smt.Indirabai Narayan Biwalkar ....
Petitioner
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 618 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 619 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

AND

WRIT PETITION NO. 620 OF 2006

Smt.Indirabai Narayan Biwalkar & Ors ....
Petitioners
V/s
The State of Maharashtra & Ors... ... .
Respondents.

Mr.Deepak More with S.A.Rajeshirke, Adv. for the petitioners.

Mr.P.I.Khemani, AGP for respondents.

CORAM: V.G. PALSHIKAR,

Ag.C.J.

AND

SMT.NISHITA MHATRE,

J.

7.02.2006.

PC:

All these petitions raise identical question of non performance of statutory duty by the Authority mentioned in section 28A of the Land Acquisition Act, 1894.

2. Large pieces of lands were acquired around 1985-86 for development of New Bombay Township. All lands of the petitioners in these petitions were situated in village Ulwe, Tahsil Panvel, District Raigad. All the lands were acquired for the same purpose viz. Development of New Bombay and were acquired simultaneously in the years 1985-86 and 87. The petitioners being illiterate and ignorant of law did not challenge the award and the amount of compensation by taking recourse to reference under section 18.

3. However, some persons identically situated as the petitioners, filed References and one such Reference was Land Acquisition Reference No.475 of 1987 and it pertained to lands covered by same notification which includes the lands of the present petitioners. This Reference was decided and compensation was enhanced. Therefore in 1991 applications have been filed by the petitioners under section 28A of the Act. Said section reads thus:

> "28A. **Re-determination of the amount of compensation on the basis of the award of the Court.----**(1)Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the

> persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not make an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court."

This provision was added to the Land Acquisition Act by amendment of 1984 to protect the persons whose lands have been acquired but have not taken recourse to provisions of Land Acquisition Act for enhanced compensation. It provided that where an award under section 18 is made and it results in enhancement of the compensation persons similarly situated can make application under that provision for redetermination of amount of compensation to them.

4. By sub-section (2) of section 28A it is contemplated that the Collector shall take up proceedings and after giving due opportunity of being heard all the persons concerned determine the amount of compensation payable to them. It is then provided under sub-section (3) that any persons who aggrieved by the award under section 28A(2) can make an application to the Collector for reference of the matter to the Court and claim that such application be decided as per the provisions of section 18 to 28.

5. A perusal of these provisions would clearly point out that the requirements of that provision are mandatory in nature and it is therefore statutory duty of the Collector to decide the application and pass an award as provided by this section. In this case admittedly period of 15 years and more has passed without any progress being done in this regard.

6. In our opinion, this reflects very sorry state of affairs because of non performance of statutory duties by an officer of the State, the State ex-chequer is likely to loose lacs of rupees, by requiring to pay interest on compensation or solatium for all these years which liability could have been

avoided by adequate efficacious disposal of these applications. In our opinion, it is necessary that the State Government looks into the situation created by such pendency of large number of applications and see that payment of unnecessary interest is avoided.

7. In our opinion, all these petitions deserve to be allowed. They are hereby allowed and the respondents are directed to see that the proceedings under section 28A of the Land Acquisition Act, 1894 are decided as expeditiously as possible preferably in three months. We wish to note here that present is not the first case or only case where the duty to decide the application under section 28A is not performed. Earlier Writ Petition No.486 of 2005 along with several other petitions came up for consideration before this Court and by an order dated 7.2.2006 directions were issued for immediate disposal of these cases. It cannot therefore, in the circumstances, be said that either the State or its officers were not aware of the position of law as pronounced by this Court. We hope that the State will take adequate notice of the situation and take up remedial steps as early as possible. In the result all these petitions succeed. Respondents are directed to decide proceedings pending under section 28A of the Land Acquisition Act, 1894 as early as possible preferably in three months.

8. Office is directed to forward a copy of this Order to the Chief Secretary, Government of Maharashtra, Mantralaya, for information and appropriate action, if thought necessary.